



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
Monticello Field Office  
P.O. Box 7  
Monticello, UT 84535  
<http://www.blm.gov>



In Reply Refer To:  
8100  
LLUTY02000

SEP 09 2019

Attn. Thomas McCulloch  
Assistant Director  
Advisory Council on Historic Preservation  
401 F Street NW, Suite 308  
Washington, DC 20001-2637

## **Re: Finding of No Adverse Effect for the Bears Ears National Monument Management Plan**

Dear Thomas McCulloch:

Pursuant to 36CFR800.5(c)(3)(i), the Bureau of Land Management (BLM) Monticello Field Office and the United States Forest Service (USFS) Manti-La Sal National Forest request that the Advisory Council on Historic Preservation (ACHP) review the findings on the Bears Ears National Monument (BENM) Management Plan (MMP) and provide its opinion as to whether the adverse effect criteria have been correctly applied. The agencies have received concurrence from the Utah State Historic Preservation Officer (SHPO) with its finding of **No Adverse Effect** for the land use planning decisions that include broad goals and objectives for specific resources and uses, and management objectives that support the goals and objectives. The National Trust for Historic Preservation, Friends of Cedar Mesa, and Utah Diné Bikéyah, as consulting parties to this undertaking, have formally objected to the agencies finding of effect.

The USFS and BLM formally invited the Advisory Council on Historic Preservation (ACHP) to participate in the BENM MMP on August 19, 2019. With that invitation, the agencies included a report (U19BL0439), notes for two consultation meetings, a finding of effect letter from the BLM and USFS to the SHPO, SHPO's concurrence on the agencies finding of effect, comments from consulting parties, and example letters to consulting parties. The objecting consulting parties notified Bill Marzela, BLM's ACHP Liaison, and Christopher Merritt, Utah Deputy State Historic Preservation Officer, in their objection submission to the agencies. The agencies will also include a copy of the objection as an enclosure with this letter.

The agencies notified consulting parties of its finding of no adverse effect and provided the appropriate documentation on August 2, 2019. The objecting consulting parties

submitted their objection on August 30, 2019. The objections include requests that conflict with BLM's policy on travel and transportation (M.S. 1626 § 3.6) that directs the BLM to conduct route designation separately from land use planning processes, except in certain circumstances, which are not applicable for the BENM MMP. The request to complete travel management planning as a part of the land use planning process also conflicts with the *Programmatic Agreement among the Advisory Council on Historic Preservation, Bureau of Land Management – Utah, and the Utah State Historic Preservation Office Regarding National Historic Preservation Act Responsibilities for Travel and Transportation Management Undertakings*, which follows the direction of the travel and transportation manual, noted above, that the BLM should complete route designations separately from the land use planning process.

In land use planning the BLM and USFS outline broad goals and objectives and make land use allocations to meet those broad goals and objectives. Land use allocations identify where uses are allowed, restricted or excluded. For example, the agencies through the proposed BENM MMPs are restricting shooting near cultural resources and at developed recreation sites. The consulting parties object to the agencies committing to later implementation-level planning such as the cultural resource management plan and travel management plan that are not a part of the BENM MMPs. The agencies will complete these plans separately and will follow the complete process outlined in the National Environmental Policy Act and the regulations at 36CFR800 implementing § 306108 of the National Historic Preservation Act, see the finding of effect letter from the BLM and USFS to the SHPO.

In their objections, the consulting parties discuss the BLM's lack of identification efforts, avoidance of consultation, incorrect National Environmental Policy Act and National Historic Preservation Act § 306108 coordination, and lack of tribal consultation. The agencies provide summary documentation of all these efforts in the finding of effect letter from the BLM and USFS to the SHPO and finding of effect letters to the consulting parties, which were enclosed with our invitation to the ACHP on August 19, 2019. Further documentation of the issues brought forth by the consulting parties can be found in report U19BL0439, Chapters 3 and 4 and appendices D, E, and F of the Final Environmental Impacts Statement, and notes from the meetings.

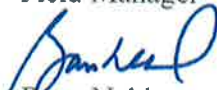
With the enclosures described above, the agencies are providing the documentation as required at 36CFR800.11(e) for a finding of no adverse effect. All of the above documentation will be made available to consulting parties and the public through [eplanning.blm.gov](http://eplanning.blm.gov), with the appropriate redaction to protect sensitive archaeological resource information.

Enclosed you will find the letter of disagreement from the consulting parties. If you have any questions, please contact M. Jared Lundell by email at [mlundell@blm.gov](mailto:mlundell@blm.gov) or at (435) 587-1535. We appreciate all the time and effort you have put into this undertaking and look forward to continuing to work with you on undertakings in the Bears Ears National Monument.

Sincerely,

A handwritten signature in black ink, appearing to read "Torres", with a long horizontal flourish extending to the right.

Gary Torres  
Field Manager

A handwritten signature in blue ink, appearing to read "Nehl", with a large loop at the end.

Ryan Nehl  
Forest Supervisor